

Indiana Water Quality Coalition Issue Paper – Antidegradation Rulemaking

Installation and Operation of Required Air Pollution Controls

New or increased wastewater discharges necessary to achieve reductions in air emissions should be exempted from antidegradation review or subject to a streamlined antidegradation review process.

The Clean Air Act and its implementing regulations impose requirements on air emission sources to install technology to reduce emissions of certain air pollutants. In many instances, scrubbers and other devices necessary to achieve CAA requirements also result in transfer of pollutants to wastewater.

The draft antidegradation rule provides for an alternative demonstration process for new or increased discharges of pollutants necessary to accomplish a reduction in the release of air pollutants. Draft 327 IAC 2-1.3-6(c). In such cases, a discharger is not required to submit a full antidegradation demonstration, but instead is subject to a streamlined review focusing on whether the “proposed action will minimize the proposed significant lowering of water quality and the discharger will use the most cost-effective pollution prevention and treatment techniques available.” In other words, the discharger would not need to undergo a demonstration and review process regarding the social or economic necessity of the discharge, but would need to undergo a wastewater treatment technology review.

In presenting the most recent draft of the rule, IDEM posed the question of whether the air pollution controls provision should be moved from a streamlined demonstration process in section 6 of the draft rule to an exemption in section 4 of the rule. The Coalition supports making the air pollution controls provision an exemption for several reasons. First, any new wastewater loadings are the result of federally required air pollution controls, and are therefore “necessary to accommodate important economic or social development.” Furthermore, it may be very difficult for IDEM to tackle a technology review because assessment of many advanced wastewater treatment technologies for air scrubbers, including flue gas desulfurization (FGD), is very complex. In fact, U.S. EPA and utilities are struggling to develop appropriately based effluent guidelines. In U.S. EPA’s recent announcement that it is delaying revision of the steam electric power generating effluent guidelines, the agency stated that one of the reasons for the delay is because U.S. EPA wants to investigate “several other plants [which] recently began operating a new generation of FGD wastewater treatment technology that may achieve substantially better pollutant reductions of metals and nutrients than EPA has evaluated to date.” See 73 Fed. Reg. 53218 (Sept. 15, 2008). Finally, treating the air pollution controls provision as an exemption is consistent with the current Indiana antidegradation rules. See 327 IAC 5-2-11.3(b)(1)(C)(iii)(KK) for high quality waters in the Great Lakes basin, and 327 IAC 5-2-11.7(c)(2)(C) for Outstanding State Resource Waters in the Great Lakes basin.

However, if the air pollution controls provision is not moved to the exemptions section of the rule, it is essential that IDEM retain the streamlined demonstration process. While it may be acceptable for IDEM to review and concur with the wastewater treatment technology, it should never be necessary to demonstrate that installation of required air pollution controls is necessary. The Coalition also recommends certain revisions to the draft rule language to clarify operation of the provision. The introductory language in draft 327 IAC 2-1.3-6(c) states that dischargers must show “that the proposed action will minimize the proposed significant lowering of water quality

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and the discharger will use the most cost-effective pollution prevention and treatment techniques available....” However, this requirement is confounded by the language in draft 327 IAC 2-1.3-6(c)(4)(B), which specifies that all cost-effective methods for minimizing or preventing the new or increased discharge have already been taken. This language implies that the treatment technologies have already been installed, and yet IDEM is still asking for an alternative technology review or DBTEs. The Coalition recommends that the language in draft 327 IAC 2-1.3-6(c)(4)(B) be deleted.